LR 7.3 TELEPHONIC HEARINGS

(a) General Rule; Form of Requests; Arrangements. The ~~Court, in its discretion,~~court may allow ~~hearing by~~a telephonic ~~conference~~hearing for any pretrial matter. ~~A~~

(1) Form of request ~~for~~. A party seeking a telephonic hearing ~~shall be made in writing with the denomination of TELEPHONIC HEARING REQUESTED, below the caption on the notice, report, or other paper filed by the party~~ must request the hearing by filing and serving a letter requesting a telephonic hearing and contacting the judge's courtroom deputy after the letter is filed to coordinate the request. This rule authorizes the ~~telephonic hearing. The logistics of the telephonic hearing shall be arranged by~~party to file this letter by ECF.

(2) Arrangements. Unless the court directs otherwise, the requesting party ~~and~~must arrange the ~~specifics shall be communicated~~logistics of the hearing and must communicate the specific arrangements to all parties ~~in advance of~~before the hearing.

~~**(b)**~~ *(3) Transcription.* If ~~the parties, or~~ any ~~one of them wishes~~party intends to ~~have a transcribed record made of~~request that the telephonic hearing~~,~~ be transcribed, that party must inform the judge's courtroom deputy before the ~~caption shall so indicate. The Court, in its discretion, shall determine the manner in which the record shall be made.~~

~~**(c)** A telephonic~~ hearing ~~may be held, in the discretion of the Judge or Magistrate Judge without the written notice requirements in (a), when~~.

(b) Hearings Without Written Notice. When deposition-related issues ~~are both capable of and require immediate resolution in order~~can and must be immediately resolved to avoid manifest injustice~~. Requests for~~, the court may hold a telephonic hearing without written notice. A party may request such a hearing ~~should be made~~ only in exigent circumstances~~, and the Court may impose the sanctions allowed under Federal Rules of Civil Procedure 37 where~~. If, in such a hearing, a party or its attorney takes a position wholly unsupported by ~~the Federal Rules of Civil Procedure, these Local Rules, or other rules of law.~~legal authority, the court may impose the sanctions allowed under Fed. R. Civ. P. 37(b).

[Adopted effective November 1, 1996; amended __, 2013]

2013 Advisory Committee's Note to LR 7.3

The language of LR 7.3 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Subsection (a) has been revised to clarify that a party must request a telephonic hearing by filing a letter in ECF and follow up that request by contacting the judge's courtroom deputy. Subsection (a)(3) was added to require that parties inform the judge's courtroom deputy if they intend to have the telephonic hearing transcribed. Telephonic hearings for certain nondispositive motions are recorded at the judge's discretion.

Former subsection (b), which related to requesting a transcript of a telephonic hearing, was deleted as unnecessary with the addition of the language in (a)(3).

1996 Advisory Committee's Note to LR 7.3

In 1993, the Civil Justice Reform Act Advisory Group recommended the use of cost-efficient measures to reduce the expense of civil pretrial proceedings, including increased use of telephonic appearances. The rule on telephonic hearings is based on strong competing interests, and the effort to appropriately balance those interests. On the one hand, the rule reflects the interest in controlling the costs and burdens associated with multiple court appearances, and the economies associated with hearings that do not require personal appearances.

On the other hand, the Court's time is a valuable resource which is carefully scheduled. It is in the interests of justice that previously scheduled matters not be disrupted by spontaneous hearing requests, and that parties and counsel previously scheduled to be in Court be allowed the Court's undivided attention. For that reason, the rule provides for spontaneous telephonic hearings only in exigent circumstances when manifest unfairness would otherwise occur. Each judicial officer retains the discretion whether to entertain spontaneous telephonic hearings on a case-by-case basis.

LR 9.1 SOCIAL SECURITY NUMBER IN SOCIAL SECURITY CASES

~~Any person seeking judicial review of~~ **(a** ~~decision of~~**)** A plaintiff suing the Commissioner of Social Security under ~~Section 405(g) of the Social Security Act (~~42 U.S.C. § 405(g~~)) shall~~) must provide, on a separate paper attached to the complaint ~~served on the Commissioner of Social Security~~, the social security number of the worker ~~on~~ whose wage record forms the basis of the benefit application ~~for benefits was filed.~~underlying the suit. The ~~person shall also state, in the complaint, that the~~ separate paper containing the worker's social security number ~~has been attached to the copy of~~must also be served, along with the complaint, on the Commissioner, and the complaint must state that the separate paper was served on the Commissioner ~~of Social Security. Failure to provide a~~. But the complaint will not be dismissed for failure to comply with this rule.

(b) The clerk must file the separate paper containing the worker's social security number ~~to the Commissioner of Social Security will not be grounds for dismissal of the complaint~~under seal.

[Adopted effective February 1, 1991; amended September 24, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 9.1

The language of LR 9.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

A new provision, subsection (b), has been added to clarify that the required paper containing the worker's social security number will be filed under seal.

1991 Advisory Committee's Note to LR 9.1

See LR 7.2 for motion practice in Social Security cases.

LR12.1 CRIMINAL DISCOVERY AND PRETRIAL MOTIONS

(a) Discovery.

(1) Unless the court orders otherwise, within 14 days after the arraignment order or scheduling order is entered, the government must disclose or make available for inspection all Fed. R. Crim. P. 16(a) materials and any evidence that may be subject to a motion to suppress evidence under Fed. R. Crim. P. 12.

(2) A defendant who accepts the materials or evidence disclosed or made available by the government under LR 12.1(a)(1) must provide reciprocal discovery to the government under Fed. R. Crim. P. 16(b) within 14 days after accepting the government's materials or evidence.

(b) Meet-and-Confer Requirement.

(1) Conference. Before filing a motion under Fed. R. Crim. P. 12, the moving party must meet and confer with the opposing party in a good-faith effort to resolve the issues raised by the motion. The moving and opposing parties need not meet in person.

(2) Meet-and-Confer Statement. A moving party must include a meet-and-confer statement in the motion that it relates to. The statement need not be filed separately. The statement must:

(A) certify that the moving party met and conferred with opposing party; and

(B) state the outcome of the conference.

(c) Pretrial Motions.

(1) Moving Party.

(A) Time limits. Unless the court orders otherwise, a motion under Fed. R. Crim. P. 12 must be filed and served within 14 days of the date on which the government is required to make disclosures under LR 12.1(a).

(B) Motion contents. To the extent practicable, a motion filed under LR 12.1 must specify with particularity the motion's factual and legal basis and must include a statement of relevant facts then known and citations to authority.

(2) Responding Party.

(A) Time limits. Unless the Court orders otherwise, any response to a motion filed under LR 12.1 must be filed and served within 7 days after the motion is served.

(B) Content of government response. A government response must include legal argument, must specify how many witnesses the government intends to call, and must provide an estimate of the duration of the testimony.

(d) Motion Hearings. Except for good cause, a hearing on a motion filed under LR 12.1 is limited to the factual and legal issues addressed in the motion and response, and to any unanticipated issues that arise in the course of the hearing.

[Adopted effective ___, 2013]

2013 Advisory Committee's Note to LR 12.1

This rule is intended to promote early and comprehensive disclosures in criminal cases and an ongoing exchange of information between the parties, particularly as to issues that may give rise to an evidentiary hearing. This goal is furthered by the requirement that a moving party, to the extent practicable, provide a particularized factual and legal basis for any motion. With challenges to police searches, for example, it is expected that the exchange of information called for by this rule will find the moving party in a position to identify specific defects in warrants and supporting affidavits under review, specific grounds for challenging warrantless searches, and particularized bases upon which a hearing is requested under *Franks v. Delaware*, 438 U.S. 154 (1978).

The Committee recognizes that with regard to some matters traditionally addressed by defendants' pretrial motions, such as the government's obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), or the government's obligations regarding the rough notes of agents, a defendant may choose to file a pretrial motion for purposes of preserving the record even if there is no particularized dispute between the parties. The Committee does not intend this rule to prohibit that traditional practice.

LR 39.1 PREPARATION FOR TRIAL IN CIVIL CASES

(a) ~~Setting the~~ Trial Date. ~~The Judge to whom the case is assigned shall notify counsel in~~ Each judge regularly places a group of civil cases ~~set~~ on ~~the Judge's~~a trial calendar ~~at~~and sets the date that a trial will begin in one of those cases (the "trial date"). At least 21 days ~~in advance of~~before the trial date, the judge must notify the ~~first case~~ parties of a case's placement on the ~~civil~~trial calendar ~~is to be called.~~ Cases on ~~such~~the trial calendar may be ~~called on a peremptory basis. The case may be heard by~~ tried in any ~~judge. For information on calendar matters, counsel shall contact the calendar clerk of the Judge who is to try the case.~~order, in front of any judge.

(b) Trial-Related Documents ~~to be Submitted for Trial.~~. Unless the court orders otherwise ~~ordered, counsel shall file and serve~~ , each party must submit or make available the following documents ~~at~~ :

(1) Before any trial.

(A) Initial pretrial documents. At least 14 days before the ~~first case on the civil calendar is to be called for trial~~trial date, each party must file and serve the following documents:

~~*(1) Documents Required for All Trials*~~

~~(A)~~ (i) Trial ~~Brief~~brief.

~~(B) Exhibit List.~~

~~A list of~~ (ii) Exhibit list. Parties must use an exhibit-list form that is substantially the same as the exhibit-list form available from the clerk. Parties must mark each exhibit with the offering party's role (and, if necessary, the offering party's name), a unique arabic numeral identifying the exhibit, and the case number. For example:

- Pltf. 1, 08-CV-1234
- Deft. 1, 08-CV-1234
- Pltf. Smith 1, 08-CV-1234

(iii) Witness list. A party's witness list must briefly summarize each witness's expected testimony.

(iv) List of deposition testimony. A party must designate the specific parts of a deposition to be offered at trial.

(v) Motions in limine.

(B) Exhibits. At least 14 days before the trial date, the parties must make exhibits ~~shall be prepared on a form to be obtained from the Clerk of Court. All exhibits shall be marked for identification with Arabic numbers and shall include the case number.~~

~~Example: Pltf. or Deft. #1~~

~~Civ. 3-84-2 (Multiple parties list name, e.g. Pltf. Smith #l)\~~

~~These exhibits shall be made~~ available to one another for examination and copying ~~at least 14 days prior to the date the first case on the civil calendar may be called for trial~~.

(C) ~~Witness List.~~

~~The list shall include a short statement of the substance of the expected testimony of each witness.~~

~~(D) List of~~ Deposition ~~Testimony.~~

~~The list shall designate those specific parts of~~ objections. At least 7 days before the trial date, a party who objects to deposition ~~to be offered~~testimony designated by another party for introduction at trial~~. Any party who wishes to object to deposition testimony shall submit~~ must file and serve a list of objections ~~at least 7 days before the first case on the civil calendar is to be called for trial~~.

~~(E) Motions in Limine.~~

(2) ~~*Additional Documents for Jury Trials*. In all~~*Before a jury* ~~trials, counsel shall~~*trial*. In a jury trial, each party must also file and serve the following documents ~~in addition to the documents listed in LR 39.1(b)(1):~~at least 14 days before the trial date:

(A) Proposed ~~Voir Dire Questions~~ voir dire questions.

(B) Proposed ~~Jury Instructions~~jury instructions.

(i) In general. Each proposed jury instruction ~~shall~~must be numbered ~~and~~, must begin on a separate page, and ~~shall contain citation to~~must identify the supporting legal authority.

(ii) Patent cases. ~~In trials that involve one or more claims relating to patents, in which the parties have agreed to a particular set of~~ In a case that involves a claim that arises under the patent laws, if a proposed jury instruction is based on model jury instructions ~~as set out in~~that the parties agreed to use under LR 16.6(c), the ~~parties shall additionally file and serve those of their instructions that pertain to the claims relating to patents in the form of specific additions to and/or deletions~~proposed instruction must show how it differs from ~~those~~the model ~~jury instructions~~instruction.

(C) Proposed ~~Special Verdict Forms~~verdict form.

~~*(3) Additional Documents for Non-Jury Trials.*~~*(3) Before a bench trial*. In ~~all non-jury trials, counsel shall~~a bench trial, each party must also file and serve proposed findings of fact and conclusions of law ~~in addition to the documents listed in LR 39.1(b)(1).~~ at least 14 days before the trial date.

~~**(c) Failure to Comply**. See LR 1.3 for sanctions for failure to comply with this rule~~

[Adopted effective February 1, 1991; amended November 1, 1996; amended May 17, 2004, amended February 9, 2006; amended December 1, 2009; amended , 2013]

2013 Advisory Committee's Note to LR 39.1

The language of LR 39.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

The provision relating to the submission of exhibit lists, now LR 39.1(b)(1)(A)(ii), has been revised to permit parties to submit their exhibit lists either on a form available from the clerk or on a form substantially the same as the clerk's form.

Former LR 39.1(c), related to sanctions for failure to comply with LR 39.1, was deleted as a needless cross-reference to LR 1.3, which applies of its own force.

2005 Advisory Committee's Note to LR 39.1(b)(2)(B)(ii)

In general. Paragraph (b)(2)(B)(ii) set outs a suggested practice in which the jury instructions of both parties relating to the scope, validity, enforcement, or unenforceability of patents is based on a single, common set of standard jury instructions. The handling of jury instructions has proven to require significant resources from both the parties and the Court. The instructions can be lengthy and detailed. In addition, the traditional process, by which the parties construct their proposed instructions in isolation from each other, presents inherent inefficiencies. It tends to cause the parties to suggest differing instructions even where they do not disagree over substance. In addition, it makes it difficult to identify the substantive points that the parties actually dispute. The problems are especially acute in cases relating to patents.

The suggestion in paragraph (b)(2)(B)(ii) addresses these problems by encouraging the parties to present their proposed suggestions as additions to or deletions from a common set of standard instructions. Under this practice, the instructions proposed by the parties will agree unless at least one party takes the affirmative step of proposing a modification of the standard language. Presumably this will occur only where the party considers the matter to be worth addressing. As a result, aspects of the instructions over which the parties do not disagree, and which the parties consider routine, will be proposed in unmodified form in such a manner as to make the lack of dispute clear. Accordingly, the areas of true disagreement will be plainly visible. In this way, the paragraph should reduce the time and cost, for both the parties and the Court, of attending to jury instructions.

Various other districts have promulgated local rules that require or encourage the parties' proposed instructions to be related to a common set of standard instructions. The suggestion in paragraph (b)(2)(B)(ii) is similar to the more lenient of these rules.

Two-stage procedure; default standard instructions. Paragraph (b)(2)(B)(ii) operates in connection with paragraph (c) of Local Rule 16.6. Under the two paragraphs, the parties are to consult regarding the selection of a particular set of pattern jury instructions as part of the final pretrial conference. The Rule contemplates that the parties will, in most cases, be able to agree on a particular set of pattern jury instructions. In the event that they are unable to agree, however, the parties should expect that the Court may, on its own initiative, impose a set of common instructions on them.

Scope of requirement; included cases vs. included instructions. The suggestion in paragraph (b)(2)(B)(ii), and the related requirement to confer under paragraph (c) of Local Rule 16.6, are intended to apply to cases relatively broadly. Cases that are included under the Rule are any that involve a claim or defense relating to patents. This includes, but is not limited to, cases that include claims for patent infringement and/or declarations for patent non-infringement or invalidity. It also includes cases in which the claims may not "arise under" the law of patents strictly, but in which the claim or defense draws upon or involves a patent more tangentially. Examples of this latter type of case include, for example, claims for breach of contract, where the contract terms at issue refer to patents or patentable subject matter, or claims for violation of antitrust law where the accused conduct involves the use of a patent or patent rights.

At the same time, the suggestion in paragraph (b)(2)(B)(ii) actually to submit instructions in terms of additions and/or deletions from a standard text is narrower. It applies only to those instructions, in an included case, that relate to the scope, validity, enforcement, or unenforceability of a patent. This is less than all the issues that may exist in an included case, and it is contemplated that, under the usual circumstances, only some of the instructions in an included case will be of the type that the Rule suggests be presented as additions and/or deletions. Instructions not included in the suggestion can be presented in any acceptable manner.

Freedom to propose particular instructions; consistency with Fed. R. Civ. P. 51. Under the practice suggested in paragraph (b)(2)(B)(ii), all parties retain the freedom to propose whatever instructions they choose. The practice does not restrict the substance of what the parties must propose; rather, it addresses only the form. The paragraph contemplates that parties who disagree with a particular standard instruction have the freedom to alter it if necessary to lay out the text of the instruction that they wish to propose. In this way, paragraph (b)(2)(B)(ii) is fully consistent with the parties' general freedom to present jury instructions, as set out for example in Fed. R. Civ. P. 51.

LR 39.2 CONDUCT OF TRIALS AND HEARINGS

~~**(a) Conduct of Counsel During Trial.**~~

(a) Addressing the Court and Examining Witnesses.

(1) ~~Counsel, when~~When addressing the ~~Court, shall rise, and all statements and communications by~~ court, counsel ~~to the Court shall be~~must stand and speak clearly and audibly ~~made~~ from the ~~counsel's~~counsel table or the lectern. Counsel ~~shall~~must not approach the ~~Judge's~~ bench~~, while Court is in session,~~ for private communications ~~unless granted~~except at the judge's request or with the judge's permission ~~or requested to do so by the Judge~~.

(2) ~~The examination of witnesses shall be conducted~~ Ordinarily, counsel must examine a witness from the lectern~~, except when~~. But counsel may, if necessary ~~to~~, approach the witness or the court reporter's

table ~~for the purpose of presenting~~ to present or ~~examining exhibits~~examine an exhibit.

(3) ~~On~~Unless the ~~trial of an issue of fact or the presentation of a motion or other matter~~court orders otherwise, only one attorney for each party ~~shall~~may examine ~~or cross-examine any~~a witness or present argument to the ~~Court unless otherwise ordered or specifically permitted by the Court~~court with respect to a particular topic.

(b) ~~Examination of~~**Examining Jurors.**

(1) In general. Unless the court orders otherwise ~~ordered by~~, the ~~Court, the~~court will conduct voir dire examination of ~~trial~~ jurors ~~shall be conducted by the Court. Counsel~~. A party may submit proposed voir dire questions ~~which they desire the Court to ask the jurors either prior to the trial or in the manner provided in a pretrial order. In both criminal and civil cases,~~ to the court.

(2) Peremptory challenges.

(A) When exercised. No party may exercise a peremptory challenge until a full panel~~, normally 28 in number in a criminal case, shall first be~~ has been called, sworn, and qualified ~~before any peremptory challenges are exercised by any party~~.

(~~2) Peremptory challenges in a~~B) Ordinary civil cases. In an ordinary civil case ~~shall be exercised by~~, the defendant and plaintiff ~~alternately striking one each until each side has exhausted or waived its~~will take turns — in that order — exercising their peremptory challenges~~. In third-party civil actions,~~ by striking one juror each until each party has exhausted or waived its peremptory challenges ~~shall be exercised by~~ .

(C) Civil cases with third-party defendants. In a civil case involving a third-party defendant, the defendant, the third-party defendant, and the plaintiff will take turns — in that order — by striking one juror each until each party has exhausted or waived its peremptory challenges.

~~(3) Peremptory challenges in~~(D) Criminal cases. In a normal criminal case with a panel of 28 jurors ~~in~~, the ~~box shall be exercised in the following order: three~~parties will exercise peremptory challenges as follows:

- 3 by defendant~~, two~~;

- 2 by the government; ~~three~~
- 3 by defendant~~, two~~;
- 2 by the government; ~~two~~
- 2 by defendant~~, one~~;
- 1 by the government; ~~and two~~
- 2 by defendant~~, one~~; and
- 1 by the government.

(c) Opening Statements and Final Arguments

(1) ~~In a civil case, after~~ *Opening statements.*

(A) Civil cases. After a jury has been selected~~, the~~ and before evidence is presented, a party ~~having the affirmative of the issue~~ may ~~open the case by stating~~make an opening statement that summarizes generally what ~~that~~the party expects to prove~~ or may waive such opening statement and be prepared to proceed with the production of evidence. Whether or not~~. If the party ~~having~~with the ~~affirmative~~burden of ~~the issue makes~~proof wishes to make an opening statement~~ or waives the same, the opposing~~, that party ~~or parties, if an~~ makes the first opening statement~~ is desired, shall make the same forthwith and before the production of any evidence or shall be deemed to have waived the same, unless leave of~~. Unless the court ~~be obtained to proceed~~orders otherwise~~. In criminal cases,~~, a party may not make an opening statement after ~~a jury~~evidence has been ~~selected, the~~presented.

(B) Criminal cases. The defendant in a criminal case may make an opening statement ~~prior to the receipt of any evidence or may reserve such, if so desired, until the completion of the prosecution's case.~~either:

(i) after the jury has been selected and before any evidence is presented; or

(ii) after the prosecution rests.

(2) ~~In final~~*Final arguments*~~, counsel shall~~.

(A) In general. Unless the court orders otherwise, a final argument must not ~~be allowed to~~ exceed one hour ~~unless the Court~~

(B) Civil cases. Each party may make a final argument. The party without the burden of proof on ~~request grants additional time. In civil cases the party having the affirmative of the issue shall have the closing final argument and the other party shall proceed first~~ a claim makes its final argument first, with no opportunity for rebuttal. ~~In criminal~~

(C) Criminal cases~~, the~~. The government ~~shall make~~makes its final argument first~~, then the~~. The defendant ~~shall argue~~makes his or her final argument next~~, with an opportunity to the~~. The government ~~for~~may make a brief rebuttal, to which the defendant may not respond.

[Adopted effective February 1, 1991; amended ___, 2013]

2013 Advisory Committee's Note to LR 39.2

The language of LR 39.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

The title of the rule has been revised to eliminate an inconsistency between the previous rule's title and its text. Specifically, former LR 39.2(a)(3) referred to "the presentation of a motion or other matter," which would seem to refer to hearings other than trials, but the rule's title was "Conduct of Trials." The rule's new title clarifies that LR 39.2's non-trial-specific provisions apply to hearings as well as trials.

LR 40.1 INDIVIDUAL CALENDAR SYSTEM

(a) Assignment of Cases.

(1) In general. ~~Each~~ When a case or matter~~, upon being~~ is filed ~~with~~, the ~~Clerk, shall be assigned~~ clerk must assign it to a specific ~~Judge~~judge by a method of random allocation ~~as determined from time to time~~approved by ~~order of~~ the ~~Court. Each Judge, unless~~court. Unless the assigned judge orders otherwise ~~ordered by the Judge, shall thereafter hear all matters and~~, that judge will preside ~~at all times on said~~ over the case until ~~the same~~it is finally determined.

(2) Requests for immediate relief. When a ~~litigant~~party requests ~~temporary or preliminary~~immediate relief ~~in the form of~~such as an order to show cause, a temporary restraining order, or ~~otherwise, litigant's counsel shall file~~ a similar order, the request will ordinarily go to the ~~case or matter with the Clerk, obtain an assignment of a Judge, and present the request, motion, or petition to the~~judge assigned ~~Judge or,~~in accordance with LR 40.1(a)(1). But if the ~~Judge is absent, to any other Judge the~~ assigned

~~Judge may have~~judge is unavailable, the request will go to a judge designated ~~to serve during the absence~~by the assigned judge to review such requests.

~~**(b) Scheduling of Trials and Motions.** Each Judge shall call a calendar of jury cases for trial at such time as the Judge may determine, arranging as nearly as possible jury trials at the same time as do the other Judges so as most efficiently to employ a juror pool. Each Judge shall arrange a trial calendar of non-jury cases and suitable times for hearing of all motions and other non-jury matters.~~

~~**(c) Continuance of a Case.** See LR 6.1~~

(b) Scheduling. Each judge independently schedules all matters.

[Adopted effective February 1, 1991; amended ___, 2013]

2013 Advisory Committee's Note to LR 40.1

The language of LR 40.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

LR 40.1(b) has been revised to reflect the court's current practice of allowing each judge to schedule matters independently. Former LR 40.1(c) was deleted as a needless cross-reference to LR 6.1, which applies of its own force.

1991 Advisory Committee's Note to LR 40.1

LR 40.1 is the same as 1987 Local Rule 2, except that, to conform with the uniform numbering system, part (C) of 1987 Local Rule 2, dealing with continuance of cases, was re-numbered as LR 6.1.

This rule is not intended to modify the procedures for recusal or the reassignment of related cases. The random allocation order is on file with the Clerk of Court and is available to counsel.

LR 47.2 CONTACTS WITH JURORS

~~**(a) General Rule.** Unless the court orders otherwise, a party and anyone acting for a party must not directly or indirectly contact a juror until the court has discharged the juror from service. Except by leave of Court, no party, or any investigator, attorney, or other person acting for a party, shall interview, examine, or question any grand or trial juror while such juror is still subject to call or recall during the juror's term of service. Nothing in this rule prohibits federal law enforcement authorities from contacting jurors in~~

(b) Law Enforcement Exception. In extraordinary circumstances ~~without Court approval pursuant to~~involving a jury-tampering investigation or ~~other~~ related criminal investigation~~. In such an extraordinary circumstance, the~~, federal law enforcement authorities may contact undischarged jurors without prior court approval. The government ~~shall~~must notify the ~~Court~~court as soon as possible after such contact.

[Adopted effective February 1, 1991; amended , 2013]

2013 Advisory Committee's Note to LR 47.2

The language of LR 47.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

LR 54.3 ~~TIME LIMIT FOR MOTION FOR AWARD OF~~ COSTS AND ATTORNEY'S FEES ~~AND FOR COSTS OTHER THAN ATTORNEY'S FEES~~

~~(a) Applications~~**(a) Under EAJA.** A party must file and serve an application for fees under the Equal Access to Justice Act ~~shall be filed~~ within 30 days of final judgment as that term is defined ~~by~~in 28 U.S.C. § 2412~~.~~(d)(2)(G).

(b) ~~In all other cases in which~~ **Under Rule 54(d)(2).** When a party timely files and serves a motion for attorney's fees ~~are sought,~~and related nontaxable expenses under Fed. R. Civ. P. 54(d)(2), the ~~party seeking an award of fees shall:~~

~~(1) Within 30 days of entry of judgment in the case, file and serve an itemized motion for the award of fees. Within 14 days after being served with a motion for the award of fees, a party may file and serve~~ court must issue a ~~response. A reply brief may not be filed unless the Court otherwise permits; or,~~

~~(2) Within 14 days after the entry of judgment in the case, serve on all counsel of record and deliver to the Clerk of Court a Notice of Intent to Claim an Award of Attorney's Fees. The Notice shall specify the statutory or other authority for the award of fees and shall identify the names of all counsel who rendered the legal services upon which the claim is based. The Notice may propose a~~briefing schedule~~ for the presentation of motions for attorney's fees. Thereafter, the Court, or the Clerk of Court acting at the Court's direction, shall issue an order setting a~~. A party who seeks to be excused for failing to comply with the briefing schedule ~~for the submission and consideration of the motion for attorney's fees and all supporting documentation.~~

~~(3) For~~must show good cause ~~shown, the Court may excuse failure to comply with LR 54.3(b).~~.

(c) Under Rule 54(d)(1). ~~In all cases in which~~ If a party seeks costs ~~are sought~~ under ~~Federal Rule of Civil Procedure~~Fed. R. Civ. P. 54(d)(1):

(1) Bill of costs.

(A) Within 30 days ~~of entry of the~~after judgment ~~in the case~~is entered, a party seeking costs ~~shall~~must file and serve a verified bill of costs using ~~the approved~~a form available from the clerk.

(~~2)~~ B) Within 14 days after being served with ~~a copy of~~ the bill of costs, ~~a~~the opposing party may file and serve objections ~~to the bill of costs. If objections are filed, a party may file and serve a response to the objections within~~ .

(C) Within 7 days after ~~service of the objections~~being served with any objections, the party seeking costs may file and serve a response.

(~~3)~~*2) Taxing of costs by the clerk.* Unless the ~~Court~~court directs otherwise, the ~~Clerk~~clerk will tax costs ~~at the conclusion of the procedure outlined in subsection~~ after the bill of costs, any objections, and any response have been filed and served in accordance with LR 54.3(c)(~~2), above.~~1).

(~~4)~~ *3) Review of clerk's action.*

(A) Within 14 days after the ~~entry of the Clerk's decision, any~~clerk taxes costs, a party may file and serve a motion and supporting documents for review of the ~~Clerk's decision.~~ clerk's action.

(B) Within 14 days after being served with the motion for review, a party may file and serve a response. ~~A reply brief may not be filed unless the Court~~

(C) Unless the court orders otherwise ~~permits~~, a party must not file a reply brief.

~~(5) The filing of a bill of costs does not affect the appealability of the judgment previously entered.~~

~~(6) The Clerk of Court will promptly enter any costs taxed in the mandate of the Court of Appeals under Fed.~~

(d) Under Fed. R. App. P. 39~~(d). Appeal costs taxable in the district court~~ **.**

(1) At the request of the circuit clerk under Fed. R. App. P. 39(d), the clerk must promptly add the statement of costs on appeal (or any amendment of that statement) to the mandate of the court of appeals.

(2) A party that seeks costs taxable under Fed. R. App. P. 39(e) ~~will be taxed in accordance with this rule, provided that a~~ must file a verified bill of costs (or amended bill of costs ~~or amended~~) within 14 days after the court of appeals issues the mandate. The procedures described in LR 54.3(c) — except the deadline for filing the initial bill of costs ~~is filed within 14 days~~

~~of the issuance of the mandate of the Court of Appeals~~found in LR 54.3(c)(1)(A) — govern a bill of costs under this subsection.

[Adopted effective February 1, 1991; amended November 1, 1996; amended January 3, 2000; amended May 17, 2004; amended December 1, 2009; amended July 23, 2012; amended ___, 2013]

2013 Advisory Committee's Note to LR 54.3

The language of LR 54.3 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Subsection (b) has been revised to eliminate a filing deadline that was inconsistent with Fed. R. Civ. P. 54(d)(2)(B). Accordingly, the timeliness of a motion for attorney's fees and related nontaxable expenses depends on sources of law outside of LR 54.3(b), and LR 54.3(b) relates only to briefing schedules for such motions.

Former LR 54.3(c)(5), which specified that filing a bill of costs does not affect the appealability of a final judgment, has been deleted as unnecessary. When and whether a final judgment is appealable is the type of legal issue that is not subject to a court's local rules.

For organizational purposes, former subsection (c)(6) is now designated as subsection (d). New subsection (d)(2) (formerly part of subsection (c)(6)) relating to appellate costs taxable in the district court under Fed. R. App. P. 39(e) has been revised to clarify that — as with an ordinary bill of costs under LR 54.3(c) — a party must file a "verified" bill of costs, as required by 28 U.S.C. § 1924.

2012 Advisory Committee's Note to LR 54.3

Former subsection (d), which stated that motions filed under this rule must comply with LR 7.1, has been deleted as redundant of LR 7.1.

2009 Advisory Committee's Note to LR 54.3

This local rule has been amended to be consistent with the amendments to the federal rules on time-computation and changes the past practice of the Clerk of Court not to tax costs until all applicable appeal periods have expired. The amended rule now requires the request to be filed promptly after the entry of judgment.

The form referenced in LR 54.3(c)(1) is available in all Clerk's Office locations and electronically on the Court's website at www.mnd.uscourts.gov. When filing a bill of costs or amended bill of costs under subsection (c)(6), refer to Fed. R. App. P. 41 to determine when the Court of Appeals mandate was issued.

Parties are encouraged to refer to the District Court's Bill of Costs Guide, which is available in all Clerk's Office locations and electronically on the Court's website at www.mnd.uscourts.gov.

1991 Advisory Committee's Note to LR 54.3

In general, applications for attorney's fees should be submitted promptly after a determination of the case on the merits. Prompt submission aids the trial Judge, whose memory of the work of the lawyers

is fresh, and facilitates appellate consideration of the whole controversy. As a general procedure, then, the rule requires attorney's fees motions to be submitted within 30 days of the entry of judgment.

The Equal Access to Justice Act, 28 U.S.C. § 2412, requires (and permits) applications for fees to be made "within thirty days of final judgment in the action". "Final judgment" is defined as "a judgment that is final and not appealable, and includes an order of settlement". It is clear that the EAJA contemplates that fee applications will be made either after appeal, or after the time for appeal has run. The rule adopts the statutory time and definitions for EAJA petitions. Some circumstances (in addition to those relating to the EAJA) may call for a different schedule for the submission of fee motions. For example, if post-judgment motions may significantly affect the results of the case (and thus the extent of the award), it may be more fair or more efficient to postpone submission and consideration of the fee motions until after those motions are decided. Additionally, in rare instances, delaying the fee consideration until after an appeal is determined may promote justice and efficiency. Subparagraph (b)(2) provides a procedure by which a party seeking fees can ask the Court to establish an alternate schedule. The Notice of Intention to Claim an Award of Attorney's Fees tolls the time for submitting a fee motion, pending the establishment of the schedule by the district court. The drafters contemplate that the Court will, in its schedule, provide adequate time for the preparation and submission of the detailed fee petition.

Finally, Section (b)(3) provides that the Court may excuse failure to abide by the provisions of the rule, for good cause shown. This section does not apply to EAJA petitions, which are governed by the statutory time limit.

LR 58.1 FIXED-SUM PAYMENT ~~IN~~FOR PETTY ~~OFFENSE MATTERS~~OFFENSES AND OTHER MISDEMEANORS

~~**(a) Authority To Accept Fixed-Sum Payment (In General).** Pursuant to Fed. R. Crim. P. Rule 58(d)(1), ("Paying a Fixed Sum in Lieu of Appearance"), and in accordance with the provisions of this Rule, all United States Magistrate Judges and the Clerk of Court within this District are hereby designated and authorized to accept fixed-sum payments in lieu of the Defendant's appearance in petty offense cases (see 18 U.S.C. § 19), whether originating under federal statute or regulation or applicable state statute by virtue of the Assimilated Crimes Act, 18 U.S.C. § 13.~~

~~**(b) Cases In Which Fixed-Sum Payment May Be Accepted (**~~

(a) Authorization. For a petty offense or misdemeanor listed in the court's fixed-sum payment schedule, the court may accept a fixed-sum payment in lieu of the defendant's appearance and end the case.

(b) Fixed-Sum Payment Schedule~~).~~. The ~~Court's~~ full-time ~~Magistrate Judges shall prepare and~~ magistrate judges must maintain a schedule of petty offenses and other misdemeanors for which a fixed-sum payment may be accepted in lieu of the ~~Defendant's personal~~defendant's appearance ~~in petty offense cases, which shall specify the amount of the fixed-sum payment required for each listed offense.~~. The fixed-sum payment schedule ~~may include, without being limited to, offenses charged by~~must specify the ~~following federal agencies:~~

~~* The Bureau~~amount of ~~Land Management~~
~~* The United States Air Force~~
~~* The United States Army Corps of Engineers~~
~~* The National Park Service~~
~~* The United States Department of Veterans Affairs~~
~~* The United States Fish and Wildlife Service~~
~~* The United States Forest Service~~
~~* The United States General Services Administration (Federal Protection Services)~~

~~The fixed-sum~~ payment ~~schedule shall be filed in~~ required for each identified offense and the ~~Clerk's offices throughout this District and upon filing shall become~~ effective~~. A fixed-sum payment, in lieu of a Defendant's personal appearance, is permissible only for alleged offenses that are specifically listed in the fixed-sum payment~~ date of the schedule. The fixed-sum payment schedule must be filed in the clerk's offices and made available on the court's website. The magistrate judges may ~~be amended from time to time by~~amend the ~~Magistrate Judges by filing with the Clerk's offices~~fixed-sum payment schedule periodically.

(c) ~~Effect Of~~ Payment.

(1) How made. To pay a fixed sum, a defendant must submit payment to the Central Violations Bureau on or before the date the defendant is scheduled to appear in court.

(2) Effect. A ~~Defendant~~defendant who pays a fixed ~~-~~sum ~~payment~~in lieu of appearing for a petty offense ~~pursuant to this Rule~~or other misdemeanor waives the right to contest the charged ~~offense~~violation.

(d) ~~Non-appearance.~~Failure to Appear. If a ~~Defendant~~defendant does not pay a fixed ~~-~~sum ~~payment pursuant to this Rule,~~ and ~~if the Defendant also fails to make a required personal appearance~~does not appear in court for a charged petty offense~~,~~ ~~then the Magistrate Judge, at his~~ or ~~her discretion,~~other misdemeanor, the magistrate judge may ~~take any of the following actions~~:

~~(i) the Magistrate Judge may~~ (1) impose any punishment~~,~~ ~~—~~ including fine, imprisonment or probation~~, within the limits established by law~~ ~~—~~ that would be permitted upon conviction ~~or after trial~~;

~~(ii) the Magistrate Judge may~~ (2) direct that a new summons be issued~~, ordering~~ that orders the ~~Defendant~~defendant to appear on a new date; or

~~(iii) the Magistrate Judge may~~ (3) order that a warrant be issued for the ~~Defendant's~~defendant's arrest.

(e) Arrest and Mandatory Appearance. Local Rule 58.1 does not prohibit a law-enforcement officer from:

(1) requiring a defendant to appear in court based on the aggravated nature of the offense;

(2) arresting a defendant for committing an offense; or

(3) taking an arrested defendant, promptly after the arrest, before a magistrate judge.

~~**(e) Aggravated Offenses.** If, within the discretion of the law enforcement officer, a petty offense is of an aggravated nature, the law enforcement officer may require the Defendant to personally appear in court, and any punishment including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction or after trial.~~

~~**(f) Personal Appearance Required.** Nothing contained in this Rule shall prohibit law enforcement officers from arresting a person for the commission of any offense, including those for which fixed-sum payment might otherwise be paid, and requiring the person charged to appear before a United States Magistrate Judge or, upon arrest, taking the person, without unnecessary delay, before a United States Magistrate Judge.~~

[Adopted effective February 9, 2006; amended ___, 2013]

2013 Advisory Committee's Note to LR 58.1

The language of LR 58.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Local Rule 58 was renumbered to LR 58.1 to be consistent with the court's local rule numbering conventions. Subsection (b) was amended to eliminate the list of agencies that may have a fixed-sum payment schedule and instead require that the fix-sum payment schedule be posted on the court's website. Subsection (c) is amended to reflect that fixed sum payments must now be made through the federal courts' Central Violation Bureau (CVB). Payments to CVB may be made by phone, mail, or online at www.cvb.uscourts.gov.

Subsection (e) was combined with former subsection (f) to include those instances where, within the law-enforcement officer's discretion, the defendant must appear in court due to the aggravated nature of the offense or that an arrest must be made.

LR 67.1 MONEY DEPOSITED INTO THE COURT REGISTRY

(a) Court Order Required. A party may deposit money into the court registry only by court order.

(b) Motion and Proposed Order; Memoranda.

(1) A party seeking to deposit money into the court registry under Fed. R. Civ. P. 67(a) must:

(A) file and serve a motion requesting an order permitting the deposit; and

(B) provide to ~~the court~~chambers and serve a proposed order that specifies the exact amount of money to be deposited.

(2) ~~The~~Parties must not file proposed ~~order must not be filed~~orders on the court's ECF system. Instead, ~~the~~ proposed ~~order~~orders must be ~~e-mailed~~emailed to chambers and served in accordance with the procedures set forth in the court's most recent civil ECF ~~Guides~~guide.

(3) A party opposing a motion to deposit money into the court registry under Fed. R. Civ. P. 67(a) must, no later than 7 days after the motion is served, file and serve a memorandum that must not exceed 1,500 words if set in a proportional font, or 140 lines if set in a monospaced font.

(4) No later than 7 days after a memorandum opposing a motion to deposit money into the court registry is served, a party seeking to deposit money into the court registry may file and serve a reply memorandum that must not exceed 1,500 words if set in a proportional font, or 140 lines if set in a monospaced font.

(c) Interest on Deposits.

(1) The clerk will not deposit money posted as bond in an interest-bearing account.

(2) Unless the court orders otherwise, the clerk will deposit all other money in an interest-bearing account.

[Adopted effective February 1, 1991; amended October 29, 2003; amended January 31, 2011; amended ___, 2013]

2013 Advisory Committee's Note to LR 67.1

The language of LR 67.1 relating to proposed orders has been revised to be consistent with similar language in LR 7.1.

2011 Advisory Committee's Note to LR 67.1

The filing requirements of LR 7.1(a)-(b), Civil Motion Practice, do not apply to motions to deposit money in the court registry. Parties who desire to deposit money into the court registry under Fed. R. Civ.

P. 67(a) need only file a motion on the court's ECF system requesting the court to enter an order to deposit money into the court registry and e-mail the presiding judge a proposed order on that motion. Refer to the ECF Guides for information on providing the court with proposed orders.

Please note that the court requires the order to deposit money into the court registry to identify the exact amount that will be deposited. If the amount to be deposited changes between when the proposed order is filed and the order is to be entered — because of accrued interest, for example — the moving party must provide the court an amended proposed order identifying the exact amount to be deposited.

LR 71.1 CONDEMNATION CASES [Abrogated]

~~When the United States files separate land condemnation actions and concurrently files a single declaration of taking relating to those separate actions, the Clerk of Court is authorized to establish a master file so designated, in which the declaration of taking shall be filed, and the filing of the declaration of taking therein shall constitute a filing of the same in each of the actions to which it relates when reference is made thereto in the separate actions.~~

[Adopted effective February 1, 1991; abrogated , 2013]

2013 Advisory Committee's Note to LR 71.1

Local Rule 71.1 is abrogated as unnecessary. The court has general procedures for consolidating related cases, and those procedures are adequate for handling land-condemnation cases.

LR 72.1 MAGISTRATE JUDGE DUTIES

(a) **General Designation.** In every case~~ to which they are~~, the court designates the magistrate judge assigned~~, each United States Magistrate Judge appointed by this court is hereby designated~~ to the case to perform the following duties authorized by ~~Title 28 United States Code, Section~~ 28 U.S.C. § 636:

(~~i~~1) Conduct scheduling conferences and enter ~~a~~ pretrial ~~schedule~~schedules;

(~~ii~~2) Hear and determine any pretrial matter pending before the court, except~~: A~~ a motion: for injunctive relief; for judgment on the pleadings; for summary judgment; to dismiss or to permit maintenance of a class action; to dismiss for failure to state a claim upon which relief can be granted; or to involuntarily dismiss an action;

(~~iii~~3) Conduct hearings, including evidentiary hearings, and submit to the ~~District Judge assigned to the case,~~district judge proposed findings ~~of fact~~ and recommendations for the disposition of:

(~~1~~A) dispositive pretrial motions in criminal cases, ~~including but not limited to~~such as motions to dismiss or quash an indictment or

information made by a defendant~~,~~ and motions to suppress evidence;

(~~2~~B) applications for post-trial relief ~~under Title 28 United States Code, Sections 2241 and 2254~~made by individuals convicted of criminal offenses;

(~~3~~C) prisoner petitions challenging conditions of confinement; and

(4D) motions for summary judgment in Social Security appeals ~~filed pursuant to Title~~ under 42 ~~United States Code, Section~~U.S.C. § 405;

(~~iv~~4) Conduct arraignments in criminal cases;

(~~v~~5) Conduct settlement conferences in civil cases; and

~~(vi) Conduct trials of persons accused of, and sentence persons convicted of petty offenses, and~~ (6) In accordance with ~~the consent of the defendant, other~~ 18 U.S.C. § 3401, with respect to misdemeanors committed within ~~this District, as allowed by Title 18 U.S.C. §3401(~~the district:

(A) Try a~~).~~ defendant accused of, and sentence a defendant convicted of, a petty offense; and

(B) With the defendant's consent, try a defendant accused of, and sentence a defendant convicted of, a misdemeanor other than a petty offense.

(b) ~~Upon specific designation by the District Judge to whom the case is assigned, each United States Magistrate Judge appointed by this Court~~**Specific Designation.** The district judge assigned to a case may specifically designate a magistrate judge to perform any of the duties authorized by ~~Title 28 United States Code, Section~~ 28 U.S.C. § 636(b). In ~~discharging any such~~performing the designated duties, the ~~Magistrate Judge shall~~magistrate judge must conform to the Local Rules ~~of this Court~~ and the instructions of the ~~District Judge to whom the case is assigned~~district judge.

(c) Consent Jurisdiction

(~~i) Upon~~1) In every case, upon the consent of the parties, ~~each full-time United States Magistrate Judge appointed by this Court is~~the court specially ~~designated~~designates the assigned full-time magistrate judge under 28 U.S.C. § 636(c) to conduct ~~any or all~~the proceedings in a ~~jury or non-jury~~ civil matter and to order the entry of judgment ~~in the case~~.

~~(ii) The Clerk of Court shall, at the time the~~(2) When an action is filed, the clerk will notify the parties ~~of the availability of~~that a ~~Magistrate Judge to exercise such jurisdiction.~~magistrate judge is available to conduct proceedings upon the parties' consent. Thereafter, ~~either the District Judge or the Magistrate Judge~~a judge may again advise the parties of the magistrate judge's availability ~~of the Magistrate Judge~~, but in ~~so~~ doing~~, shall~~ so, the judge must advise the parties that they are free to withhold consent without adverse substantive consequences.

[Adopted effective February 1, 1991; amended May 17, 2004, amended May 16, 2005; amended September 24, 2009; amended December 1, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 72.1

The language of LR 72.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments. In particular, the language of LR 72.1 has been revised to align more closely with the language of 28 U.S.C. § 636 and 18 U.S.C. § 3401.

2005 Advisory Committee's Note to LR 72.1 and LR 72.2

This Rule was substantially restructured in 2005 to accommodate various changes made over the years to the Magistrate Judge Act, Title 28 United States Code, Section 636 and to Federal Rules of Civil Procedure 72 and 73.

The Rule contemplates that the duties described in Local Rule 72.1. a. will be automatically exercised by the Magistrate Judge in every case to which he or she is assigned without any further direction or reference by the District Court Judge.

In any individual case, pursuant to Local Rule 72.1 b, the District Judge to whom the case is assigned may also designate a Magistrate Judge to perform any of the other duties described in the Magistrate Judge Act. The Court and the Committee intend that these duties include the full range of duties permitted by the Act, Title 28 United States Code, Section 636, and may include but are not limited to: Serving as a special master; taking a jury verdict in the absence of the District Judge; conducting hearings and submitting to the District Judge assigned to the case proposed findings of fact and recommendations for the disposition of dispositive pretrial motions in civil cases; receiving grand jury returns pursuant to Fed. R. Crim. P. 6(f); issuing writs or other process necessary to obtain the presence of parties or witnesses or evidence needed for Court proceedings; and performing any other additional duties as are not inconsistent with the Constitution and laws of the United States @ Title 28 United States Code, Section 636(b)(3).

1991 Advisory Committee's Note to LR 72.1(b)(2) and LR 72.1(c)(2)

The Advisory Committee does not intend to require or encourage the filing of briefs accompanying objections to decisions by the Magistrate Judges. Ordinarily, the briefs submitted to the Magistrate Judge are sufficient for the district judge to decide on objections. However, this rule gives the objecting party the option of filing a brief when the objecting party believes that special circumstances justify doing so.

The time period for appeal under LR 72.1(b) runs from the "entry of the Magistrate Judge's order". The time period for objecting under LR 72.1(c) runs from "being served with" a copy of the findings,

recommendations, or report of the Magistrate Judge. This difference in language appears in Fed. R. Civ. P. 72(a) and Fed. R. Civ. P. 72(b), so the committee reluctantly preserved this distinction in the local rules.

This rule applies to objections to decision of Magistrate Judges under Fed. R. Civ. P. 72. It does not affect practice in appeals from trials by consent under Fed. R. Civ. P. 73-75. See Fed. R. Civ. P. 75(c), which provides time lines for filing briefs in proceedings on appeal from Magistrate Judges to district Judges under Fed. R. Civ. P. 73(d).

LR 72.2 REVIEW OF MAGISTRATE JUDGE RULINGS

(a) Nondispositive Matters. ~~A Magistrate Judge to whom~~When a pretrial matter not dispositive of a party's claim or defense ~~of a party~~ is referred ~~shall promptly conduct such proceedings as are required and when appropriate enter into the record a written order setting forth the disposition of~~ to and decided by a magistrate judge, a party may seek review of the magistrate judge's order on the matter~~. Within 14 days after being served with a copy of the Magistrate Judge's order, unless a different time is prescribed by the Magistrate Judge or a District Judge, a~~ as follows:

(1) Objections. A party may file and serve objections to the order~~;~~ within 14 days after being served with a copy, unless the court sets a different deadline. A party may not ~~thereafter~~ assign as error a defect in the ~~Magistrate Judge's~~ order ~~to which objection was~~ not timely ~~made~~objected to.

(2) Response. A party may respond to another party's objections within 14 days after being served with a copy ~~thereof.~~ .

(3) Review by district judge. ~~The District Judge to whom the case is assigned shall~~ The district judge must consider ~~such~~timely objections and ~~shall~~ modify or set aside any ~~portion~~part of the ~~Magistrate Judge's~~ order ~~found to be~~that is clearly erroneous or is contrary to law. The ~~District Judge~~district judge may also reconsider on his or her own any matter ~~sua sponte.~~decided by the magistrate judge but not objected to.

(b) Dispositive ~~Matters.~~ ~~A Magistrate Judge assigned~~Motions and Prisoner Petitions. When, without the parties' consent ~~of the parties to hear~~, a pretrial matter dispositive of a party's claim or defense ~~of a party~~ or a prisoner petition challenging the conditions of confinement ~~shall promptly conduct such proceedings as are required. A record shall be made of all evidentiary proceedings before the Magistrate Judge, and a record may be made of such other proceedings as the Magistrate Judge deems necessary. The Magistrate Judge shall file with the Clerk of Court a recommendation for disposition of the matter, including proposed findings of fact when appropriate.~~

~~A party objecting to the~~ is assigned to and heard by a magistrate judge, a party make seek review of the magistrate judge's recommended disposition ~~of the matter shall promptly arrange for the transcription of the record, or portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the District Judge otherwise directs. Within 14 days after being served with a copy of the recommended disposition, unless a different time is prescribed by the Magistrate Judge or a District Judge, a party may serve and file specific, written objections to the proposed findings and recommendations. A party may respond to another party's objections within 14 days after being served with a copy thereof.~~ as follows:

> ~~The District Judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the Magistrate Judge's disposition to which~~
>
> *(1) Objections and transcript.* A party may file and serve specific written ~~objection has been made in accordance~~objections to a magistrate judge's proposed findings and recommendations within 14 days after being served with ~~this rule. The District Judge, however, need not normally conduct a new hearing and may consider the record developed before the Magistrate Judge and make~~a copy of the recommended disposition, unless the court sets a ~~determination on the basis of that record. The District Judge~~different deadline. Unless the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portions of it the parties agree to or the magistrate judge deems sufficient.
>
> *(2) Response.* A party may respond to another party's objections within 14 days after being served with a copy.
>
> *(3) Review by district judge.* The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended ~~decision,~~disposition; receive further evidence~~,~~; or ~~recommit~~return the matter to the ~~Magistrate Judge~~magistrate judge with instructions. Ordinarily, the district judge does not conduct a new hearing when ruling on a party's objections, but instead relies on the record of proceedings before the magistrate judge.

~~**(c) Consent of the Parties.** In proceedings where the Magistrate Judge has been designated to exercise civil jurisdiction pursuant to the consent of the parties, in accordance with Title 28, U.S.C. Section 636(c), appeal from a judgment entered upon direction of a Magistrate Judge will be to the appropriate Court of Appeals as it would from a judgment entered upon direction of the District Judge.~~

~~(d~~(c) Format of Objections and Responses.

(1) Word or Line Limits.

(A) Except with the court's prior permission, objections or a response to objections filed under LR 72.2 must not exceed 3,500 words if set in a proportional font, or 320 lines of text if set in a monospaced font.

(B) All text — including headings, footnotes, and quotations — counts toward these limits, except for:

(i) the caption designation required by LR 5.2;

(ii) the signature-block text; and

(iii) certificates of compliance.

(C) A party who seeks to exceed these limits must first obtain permission to do so by filing and serving a letter of no more than two pages requesting such permission. A party who opposes such a request may file and serve a letter of no more than two pages in response. This rule authorizes the parties to file those letters by ECF.

(2) Type Size.

(A) Represented Parties. Objections or a response to objections filed by a represented party must be typewritten. All text, including footnotes, must be set in at least font size 13 (i.e., a 13-point font) as font sizes are designated in the word-processing software used to prepare the objections or response to objections. Text must be double-spaced, with these exceptions: headings and footnotes may be single-spaced, and quotations more than two lines long may be indented and single-spaced. Pages must be 8 ½ by 11 inches in size, and no text — except for page numbers — may appear outside an area measuring 6 ½ by 9 inches.

(B) Unrepresented Parties. Objections or a response to objections filed by an unrepresented party must be either typewritten and double-spaced or, if handwritten, printed legibly.

(3) Certificate of Compliance. Objections or a response to objections must be accompanied by a certificate executed by the party's attorney, or by an unrepresented party, affirming that the document complies with the limits in LR 72.2(~~d~~c)(1) and with the type-size limit of LR 72.2(~~d~~c)(2). The

certificate must further state how many words (if set in a proportional font) or how many lines (if set in a monospaced font) the document contains. The person preparing the certificate may rely on the word-count or line-count function of his or her word-processing software only if he or she certifies that the function was applied specifically to include all text, including headings, footnotes, and quotations. The certificate must include the name and version of the word-processing software that was used to generate the word count or line count.

[Adopted effective February 1, 1991; amended May 17, 2004, amended May 16, 2005; amended September 24, 2009; amended December 1, 2009; amended July 23, 2012; amended ___, 2013]

2013 Advisory Committee's Note to LR 72.2

The language of LR 72.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments. In particular, the language of LR 72.2 has been revised to align more closely with the language of Fed. R. Civ. P. 72, and material that was redundant of 28 U.S.C. § 636 and Fed. R. Civ. P. 73 has been deleted. These deletions are not intended to have any substantive effect. Former subsection (c) was deleted and the rule was renumbered accordingly.

2012 Advisory Committee's Note to LR 72.2

Technical amendments were made to LR 72.2 in light of changes made to LR 7.1. Specifically, all cross-references to LR 7.1 were eliminated, and a new subsection (d) was added to LR 72.2 to clarify that the format and filing requirements in LR 72.2 apply to objections and responses to objections filed under this rule in all cases, whether civil or criminal.

2005 Advisory Committee's Note to LR 72.1 and LR 72.2

This Rule was substantially restructured in 2005 to accommodate various changes made over the years to the Magistrate Judge Act, Title 28 United States Code, Section 636 and to Federal Rules of Civil Procedure 72 and 73.

The Rule contemplates that the duties described in Local Rule 72.1. a. will be automatically exercised by the Magistrate Judge in every case to which he or she is assigned without any further direction or reference by the District Court Judge.

In any individual case, pursuant to Local Rule 72.1 b, the District Judge to whom the case is assigned may also designate a Magistrate Judge to perform any of the other duties described in the Magistrate Judge Act. The Court and the Committee intend that these duties include the full range of duties permitted by the Act, Title 28 United States Code, Section 636, and may include but are not limited to: Serving as a special master; taking a jury verdict in the absence of the District Judge; conducting hearings and submitting to the District Judge assigned to the case proposed findings of fact and recommendations for the disposition of dispositive pretrial motions in civil cases; receiving grand jury returns pursuant to Fed. R. Crim. P. 6(f); issuing writs or other process necessary to obtain the presence of parties or witnesses or evidence needed for Court proceedings; and performing any other additional duties as are not inconsistent with the Constitution and laws of the United States @ Title 28 United States Code, Section 636(b)(3).

1991 Advisory Committee's Note to LR 72.1(b)(2) and LR 72.1(c)(2)

The Advisory Committee does not intend to require or encourage the filing of briefs accompanying objections to decisions by the Magistrate Judges. Ordinarily, the briefs submitted to the Magistrate Judge are sufficient for the district Judge to decide on objections. However, this rule gives the objecting party the option of filing a brief when the objecting party believes that special circumstances justify doing so.

The time period for appeal under LR 72.1(b) runs from the "entry of the Magistrate Judge's order". The time period for objecting under LR 72.1(c) runs from "being served with" a copy of the findings, recommendations, or report of the Magistrate Judge. This difference in language appears in Fed. R. Civ. P. 72(a) and Fed. R. Civ. P. 72(b), so the committee reluctantly preserved this distinction in the local rules.

This rule applies to objections to decision of Magistrate Judges under Fed. R. Civ. P. 72. It does not affect practice in appeals from trials by consent under Fed. R. Civ. P. 73-75. See Fed. R. Civ. P. 75(c), which provides time lines for filing briefs in proceedings on appeal from Magistrate Judges to district Judges under Fed. R. Civ. P. 73(d).

LR 79.1 CUSTODY AND DISPOSITION OF ~~RECORDS,~~ EXHIBITS AND DOCUMENTS ~~UNDER SEAL~~

(a) Custody of the Clerk. ~~All~~ Ordinarily, a party must deliver to the clerk all exhibits~~, including models and diagrams~~ introduced ~~in~~into evidence~~, upon the~~ at a hearing ~~of any cause or motion, shall be delivered to the Clerk, who shall~~or trial, and the clerk will keep ~~the same in~~ custody~~, except as otherwise ordered by the Court. All~~ of the exhibits ~~received in evidence that are in the nature of narcotic~~. But exhibits such as drugs, legal or counterfeit money, firearms, or contraband ~~of any kind~~ may be entrusted to the custody of the arresting or investigative ~~agency of the~~ government agency pending disposition of ~~the~~a case and ~~for~~during any subsequent appeal period ~~thereafter~~.

(b) Withdrawal of Original Exhibits and Documents. ~~Records and Papers.~~ ~~Except as provided in subsections (c),(d) and (e) hereof, no~~ A person may withdraw an original ~~pleading, paper, record, model, or~~ exhibit ~~shall be taken~~or document from the custody of the ~~Clerk~~clerk or ~~other~~ another court officer ~~of this Court except~~ only:

(1) ~~upon order of the Clerk of this Court~~by leave of court, and

(2) ~~upon~~after leaving a proper receipt with the ~~Clerk~~clerk or officer.

(c) Sealed Documents ~~Subject to a Protective or Confidentiality Order.~~ ~~Original Documents filed subject to a protective or confidentiality order shall be separately stored and maintained by the Clerk and shall~~. The clerk must not ~~be disclosed~~disclose or ~~otherwise made~~make available ~~to any person except as provided by the terms and conditions of the relevant order.~~

~~**(d) Removal of Models, Diagrams, Exhibits and Documents**~~ documents that are filed under ~~**Seal.** All models, diagrams, exhibits and documents subject to a~~

protective or confidentiality order remaining in the custody of the Clerk shall be taken away by the parties within four months after the case is finally decidedseal, unless an appeal is taken. In all cases in which an appeal is taken, they shall be taken away within 30 days after the filing and recording of the mandate of the Appellate Court finally disposing of the cause. On motion of any party, or on the request of any nonparty, or on the Court's own initiative, the court may order that any model, diagram, exhibit or document shall be retained by the Clerk for such longer period of time as may be determined by the court, notwithstanding any of the foregoing requirements of this paragraph (d).

(e) Other Disposition by the Clerk. When models, diagrams, exhibits and documents subject to a protective or confidentiality order in the custody of the Clerk are not taken away within the time specified in the preceding paragraph of this rule, it shall be the duty of the Clerk to notify counsel in the case of the requirements of this rule. Any articles, including documents subject to a protective or confidentiality order, which are not removed within 30 days after such notice is given shall be destroyed by the Clerk, unless otherwise ordered by the Courtorders otherwise.

[Adopted effective February 1, 1991; amended November 1, 1996; amended May 1, 2000; amended October 18, 2007; amended ____, 2013]

2013 Advisory Committee's Note to LR 79.1

The language of LR 79.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Former subsections (d) and (e) concerning the removal and disposition of sealed documents have been eliminated. All documents, including sealed documents that are filed as part of the case record, are maintained in the case record in accordance with the records-disposition schedule approved by the Judicial Conference and the Archivist of the United States.

1996 Advisory Committee's Note to LR 79.1

To facilitate reference, the portion of the 1991 version of LR 79.1 that relates to filing of discovery documents has been moved to LR 26.4.

LR 80.1 COURT REPORTERS' TRANSCRIPTS

(a) Filing of all Transcripts Made.

(1) Reporters employed by the judiciary. When any Unless the court orders otherwise, when an official court reporter employed by the judiciary has completed the preparation of anycompletes a transcript of any Courta court proceeding, the reporter shallmust promptly file electronically a certified copy thereof, in accordance with 28 U.S.C. § 753(b), unless otherwise ordered byon the Courtcourt's ECF system.

(2) *Other reporters.* When anyUnless the court orders otherwise, when an official court reporter, other than a court reporter not employed by the judiciary, has completed the preparation of any completes a transcript of any Courta court proceeding, the reporter shallmust promptly file with the office of the Clerk of Court a certified copy thereof in accordance with 28 U.S.C. § 753(b);with the clerk, and the Clerk shall electronicallyclerk must then file the copy ofon the official transcript provided by the court reporter, unless otherwise ordered by the Courtcourt's ECF system.

(b) **Post-Filing Restriction After Transcript Filed.**

(1) AccessUnless the court orders otherwise, access to a transcript provided to the Courtprepared by aan official court reporter will beand filed under LR 80.1(a) is restricted in accordance with this rule.as follows:

(A) TranscriptsA transcript of a sealed proceedingsproceeding or filed in a sealed cases shallcase must not be made available to the public, electronically or otherwise, unless otherwise ordered by the Court in any format.

(B) TranscriptsA transcript of a criminal voir dire proceedings shallproceeding must not be made available to the public, electronically or otherwise, unless otherwise ordered by the Court in any format.

(C) Remote electronic access to transcriptsa transcript of a civil voir dire proceedings shall remainproceeding is permanently restricted to the users identified in LR 80.1(b)(2).

(D) Remote electronic access to any other transcript is restricted to the users identified in subsection (b)(2) of this rule indefinitely, unless otherwise ordered by the Court.

(D) Access to all other transcripts will be restrictedLR 80.1(b)(2) for a period of 90 days after the transcript is filed by the court reporter or the Clerk of Court.

(2) Unless the court orders otherwise ordered by the Court, during the 90-day restriction period days after a transcript is filed, only the following will haveusers may access to the transcript in CM/through the court's ECF system:

(A) Court staff;

(B) ~~Public terminal users in the Clerk's Office, for inspection only;~~

~~(C) Attorneys of record or parties who have purchased the transcript from the court reporter; and~~

~~(D) Other persons as directed by the Court, e.g., appellate attorneys.~~

~~(3) PACER fees will apply at all times when the transcript is remotely accessed electronically except when the transcript is accessed by Court staff or at the~~ Persons using public terminals in the ~~Clerk's Office.~~

~~(4) A copy of any transcript, except transcripts that are~~ clerk's office for inspection only, not ~~publicly available, may be purchased from the court reporter at the rate established by the Judicial Conference at any time.~~ for copying;

(C) Parties that have purchased the transcript; and

(D) Other persons — such as, for example, appellate attorneys — as ordered by the court.

(c) ~~Transcript Available~~Availability After 90-Day Restriction Period.

~~(1) Unless remote electronic access to the transcript is otherwise restricted by this rule, after the~~ After the 90-day post-filing restriction period ~~has ended~~ and after the court resolves all pending motions related to the ~~transcript are resolved, the original transcript or the redacted transcript if redaction occurred will be available for inspection and copying at the Clerk's Office and for downloading from the Court's CM/ECF system through the judiciary's PACER system, unless otherwise ordered by the Court.~~transcript's availability or contents, a transcript not subject to special restrictions under LR 80.1(b)(1) is available as follows unless the court orders otherwise:

~~(2)~~ *(1) Unredacted transcripts.* If ~~redaction occurred, the Clerk will maintain the~~ an original ~~un-~~transcript was not redacted, the clerk must permit remote electronic ~~version~~access to the transcript through the court's ECF system and must permit inspection and copying of the transcript ~~as a~~at the clerk's office.

(2) Redacted transcripts. If an original transcript was redacted, the clerk must permit remote electronic access to the redacted transcript through the court's ECF system. Remote electronic access to the unredacted transcript is restricted ~~document~~to the users identified in ~~accordance with subsection~~ LR 80.1(b)(2~~)~~). The clerk must permit inspection and copying of ~~this rule, except that the restricted document will~~

~~be available to view and copy in the Clerk's Office, unless otherwise ordered by the Court~~the unredacted transcript at the clerk's office.

(d) Transcript Fees. ~~The court reporter shall not be~~

(1) Payment required ~~to undertake the making of~~. Ordinarily, until a ~~typed~~party makes the required payment, a court reporter may decline to begin preparing a transcript ~~for parties other than the Court without payment, nor to~~ or to furnish ~~such~~a completed transcript ~~prior to the full payment therefor, except as otherwise ordered by the Court for~~. But the court may excuse a party who has been permitted to proceed in forma pauperis ~~cases.~~ from paying for a transcript and may require the court reporter to begin preparing a transcript or to furnish a completed transcript without payment from the party.

(2) Fees for electronic access. A ~~current schedule of~~ person other than a court employee who remotely accesses a transcript through the court's ECF system must pay the applicable fees~~, as~~. A person may electronically access a transcript at the public terminals in the clerk's office for free.

(3) Fees for purchasing transcript from court reporter. A person may buy a copy of a publicly available transcript from a court reporter by paying the applicable fee.

(4) Fee schedule. The fees for transcript preparation and for transcripts purchased from court reporters are established by the Judicial Conference~~,~~ of the United States. The current fee schedule is ~~on file in the Clerk's Office and is~~ available from the clerk and from the official court reporters.

[Adopted effective February 1, 1991; amended April 6, 2004; amended May 12, 2008; amended August 11, 2008; amended ___, 2013]

2013 Advisory Committee's Note to LR 80.1

The language of LR 80.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

2008 Advisory Committee's Note to LR 80.1

LR 80.1 does not apply to deposition transcripts.

LR 83.10 CRIMINAL SENTENCING ~~PROCEDURES IN CRIMINAL CASES SUBJECT TO THE SENTENCING REFORM ACT OF 1984~~

~~The following procedures are hereby established to govern sentencing proceedings for all criminal proceedings subject to the Sentencing Reform Act of 1984, 18 U.S.C. § 3551, et seq.:~~

(a) Plea ~~Agreement~~Agreements and Sentencing Stipulations. ~~At the time of~~Before a ~~plea or the offer of a plea agreement, counsel for the~~ defendant ~~and counsel for the government will submit a written plea agreement and statement of facts. This written submission shall include the maximum potential penalties for the charged offenses, all terms of the plea agreement, and, to the extent possible, stipulations of fact which address the essential elements of the offense and the relevant sentencing guidelines. Prior to entry of~~ enters a guilty plea~~, counsel for~~ pursuant to a plea agreement, the defendant and ~~counsel for~~ the government ~~shall~~must make every effort to resolve ~~all~~ material disputes ~~in order to~~and thus minimize the ~~necessity of~~need for an evidentiary hearing ~~at the time of~~with respect to sentencing. The parties' resolution of such disputes remains subject to ~~Court~~court review and acceptance. When the government and the defendant agree to a plea pursuant to a plea agreement, they must jointly submit a written plea agreement. The plea agreement must include:

(1) the maximum potential penalties for the offense (or offenses) to which the defendant agrees to plead guilty;

(2) all terms of the plea agreement; and

(3) to the extent possible, stipulations with respect to:

(A) the essential elements of the offense (or offenses); and

(B) the applicable sentencing guidelines.

(b) Preparing the Preliminary Presentence Report. The probation ~~office shall~~officer must exercise due diligence in conducting the presentence investigation and preparing a ~~Preliminary Presentence Report.~~preliminary presentence report. Within the reasonable constraints of ongoing investigations and proceedings, ~~counsel for~~ the government ~~shall~~must exercise due diligence in providing materials to the probation ~~office~~officer for ~~purposes of~~that officer's use in preparing the preliminary presentence report. The probation officer who interviews a ~~Preliminary Presentence Report. On~~defendant as part of a presentence investigation must, on request, give the defendant's ~~counsel is entitled to~~attorney notice and a reasonable opportunity to attend ~~any~~the interview ~~of the defendant by the probation officer, in the course of the presentence investigation. The Preliminary Presentence Report shall be deemed to have been disclosed the day it is issued and sent to counsel for the parties~~.

(c) Objections to the Preliminary Presentence Report. ~~If a party objects~~

(1) Time to ~~the guideline calculations and/or the facts underlying the guideline calculation~~*Object.* By the deadline set ~~forth in the Preliminary Presentence Report, within 14 days of disclosure of the Preliminary Presentence Report to the parties, counsel shall deliver to the probation officer and opposing counsel written correspondence objecting to the Preliminary Presentence Report identifying all such~~ by the probation officer in compliance with Fed. R. Crim. P. 32(f)(1), the parties must state in writing any objections~~. A party shall~~ to the preliminary presentence report, including objections to material information, sentencing guideline ranges, and policy statements contained in or omitted from the report. A party's written objections must include material information and~~/or~~ legal ~~support for any such~~authority supporting the objections, as well as any proposed minor amendments ~~and/~~or corrections that do not affect the guideline calculations.

~~Untimely submissions by counsel may not be accepted by the probation office absent approval of the presiding Judge.~~

(2) Serving Objections. An objecting party must provide a copy of its objections to the opposing party and to the probation officer.

(3) Untimely Objections. If a party's objections are untimely, the probation officer must not accept the objections unless the party has received the court's permission to make untimely objections.

(d) Final Presentence Report ~~and~~, Addendum~~. The probation officer shall make any revisions to the presentence report deemed proper based on the parties' submissions. The~~, and Recommendation.

(1) After the deadline for objections has passed, the probation officer ~~shall also prepare an Addendum addressing the parties' objections to the Preliminary Presentence Report.~~ must — in accordance with Fed. R. Crim. P. 32(f)(3) and (g) — revise the presentence report as appropriate, prepare an addendum, and submit the final presentence report and addendum to the parties and the court.

~~The probation office shall transmit the Final Presentence Report and Addendum to the presiding Judge and to counsel for the parties. The Final Presentence Report shall be deemed to have been disclosed the day it is issued and sent to the parties.~~

~~The probation office shall also~~(2) The probation officer must submit a confidential sentencing recommendation to the ~~presiding Judge. This sentencing recommendation shall~~court. Unless the court directs otherwise, the probation officer must not ~~be~~ further ~~disclosed without a specific directive by the Court~~disclose this recommendation.

(e) Position Regarding Sentencing. Within 14 days of ~~disclosure of the Final Presentence Report, counsel for the defendant and counsel for the government shall~~the date of the final presentence report, each party must file and serve a ~~pleading~~document entitled "Position Regarding Sentencing." ~~The pleading shall~~ Two courtesy copies must be provided to the judge and one courtesy copy must be provided to the probation officer. This document must:

(1) set forth the party's position ~~regarding the applicable Sentencing Guidelines as well as the party's position regarding any relevant~~with respect to both the sentencing guidelines and the sentencing factors set forth in ~~Title 18, United States Code, Section~~ 18 U.S.C. § 3553(a~~). If~~);

(2) specifically identify any issues ~~are~~ in dispute~~, the Position Regarding Sentencing shall identify such issues~~;

(3) state, with respect to each issue in dispute, the extent to which the ~~Court~~court can rely on the ~~Final Presentence Report~~final presentence report to resolve ~~any such objections,~~the dispute; and

(4) specifically identify any issues ~~or objections that will be subject~~as to which the party requests an evidentiary hearing.

~~This pleading shall be filed with the Clerk of Court, with one copy served upon the probation office and one copy served upon opposing counsel. Counsel shall also provide two courtesy copies of the submission to the presiding Judge.~~

(f) ~~Request for~~ Evidentiary Hearing. ~~The parties must indicate in their Position Regarding Sentencing whether an evidentiary hearing is required~~

(1) With respect to ~~resolve any of the~~contested issues ~~in dispute. If either~~ relevant to sentencing, if a party believes that a hearing on an issue is necessary, ~~the~~that party ~~bearing the burden of proof~~ must file and serve a separate motion requesting an evidentiary hearing ~~contemporaneous with submission of the Position Regarding Sentencing.~~on the issue. The motion ~~shall~~ must:

(A) be filed at the same time as the Position Regarding Sentencing;

(B) set forth ~~to the extent practicable, the unresolved issues~~the contested issue; and

(C) provide an estimate of the time required for the hearing.

(2) At least 7 days ~~prior to any~~before an evidentiary hearing, ~~the parties shall~~ each party must provide the ~~presiding Judge,~~ judge, the

opposing ~~counsel~~party, and the probation officer with a witness list and an exhibit list.

(g) ~~Reply~~Response to Position Regarding Sentencing~~. No later than~~; Motion for Downward Departure.

(1) At least 7 days ~~prior to~~before sentencing, ~~counsel for the defendant and counsel for the government~~each party may ~~each~~ file and serve a response to the opposing party's ~~"~~Position Regarding Sentencing~~." This pleading shall be filed with the Clerk of Court, with one copy served upon the probation office and one copy served upon opposing counsel. Counsel shall also provide two~~. Two courtesy copies ~~of the submission to the presiding Judge.~~must be provided to the judge and one courtesy copy must be provided to the probation officer.

(2) If the government ~~is~~intends to ~~file~~move for a downward departure ~~motion made~~ under ~~Section~~§ 5K1.1 ~~and/or Title 18, United States Code, Section~~ of the Sentencing Guidelines or under 18 U.S.C. § 3553(e), it ~~shall~~must do so ~~no later than~~at least 7 days ~~prior to~~before sentencing. ~~If filed, this pleading shall~~The government's motion must be filed under seal ~~with the Clerk of Court, with one copy served upon~~and served on the defendant. The government must provide two courtesy copies to the judge and one courtesy copy to the probation ~~office and one copy served upon opposing counsel. Counsel shall also provide two courtesy copies of the submission to the presiding Judge~~officer.

(h) Alternative Procedures in Complex Cases. ~~To the extent a party deems appropriate given~~A party may request permission from the judge to deviate from the procedures and deadlines set forth in this rule. A party making such a request must explain why the complexity or particular nature of ~~a~~the case~~, a party or parties may seek leave from the presiding Judge to deviate from the sentencing procedures or dates set forth herein~~ justifies the request.

(i) ~~Resolution of Disputes.~~ ~~If sentencing facts or factors are the subject of reasonable dispute, the Court will afford an opportunity for parties to present relevant information after which the Court shall resolve disputes in accordance with Rule 32(a)(1) of the Federal Rules of Criminal Procedure.~~

~~(j)~~ Court's Authority. Nothing in this rule ~~shall restrict~~restricts the ~~Court's~~court's authority to accept or to reject a plea ~~agreements~~agreement or to accept or to reject ~~stipulations~~a stipulation of fact.

(~~k~~j) Non-Disclosure. Nothing in this rule ~~shall require~~requires the disclosure of any portions of the ~~Presentence Report~~presentence report that are not discoverable under Fed. R. Crim. P. 32.

[Adopted effective February 1, 1991; amended November 1, 1996; amended May 17, 2004; amended September 24, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 83.10

The language of LR 83.10 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Revised LR 83.10 does, however, include a handful of substantive changes. Specifically, revised subsection (a) directs parties to include in plea agreements "stipulations" of any kind, rather than just "stipulations of fact." Revised subsection (f) provides that either party may request an evidentiary hearing about a contested sentencing-related issue, regardless of whether the requesting party bears the burden of proof on the issue.

Further, the provisions relating to deadlines for objections to presentence reports and deadlines for sentencing position papers have been modified slightly to conform better to current practice and to Fed. R. Crim. P. 32.

With respect to objections, under revised LR 83.10(c), the probation officer will establish a specific deadline for serving objections in every case. That deadline will be communicated along with the preliminary presentence report. The deadline will always be at least 14 days from the date of the report, in accordance with Fed. R. Crim. P. 32(f)(1). An additional 3 days will typically be added to the deadline if the report is delivered by mail; if that adjusted deadline falls on a weekend or holiday, the deadline will be moved to the next business day.

The deadline for sentencing position papers under the revised rule is 14 days from the date of the final presentence report, regardless of how that report is delivered.

~~**2009 Advisory Committee's Note to LR 83.10**~~

The following table illustrates the ~~time lines described~~timelines in revised LR 83.10:

Day	~~Timeline of Filings~~ **Event**
Day ~~0~~*X*	~~Preliminary PSI issued and sent~~Probation officer issues preliminary presentence report, including deadline for objections.
~~Day 14~~Deadline set by probation officer (at least Day *X* + 14 days, and sometimes Day *X* + 17 or more days)	~~Objections to Preliminary PSI~~Parties serve objections.
Day ~~0~~*Y*	~~Final PSI/Addendum issued and sent~~Probation officer issues final presentence report with addendum.
Day *Y* + 14 days	Parties file Positions Regarding Sentencing ~~filed/Request~~. Parties file motions for ~~Evidentiary Hearing filed~~an evidentiary hearing (if ~~requested)~~one is sought).
Day *Z*	~~Sentencing Scheduled by presiding Judge~~Date of sentencing hearing.
At least 7 days ~~prior to Sentencing~~before Day *Z*	~~Optional: Reply~~Optionally, parties file responses to Positions Regarding Sentencing ~~filed~~. ~~Any Government Downward Departure Motion~~

	~~filed~~Optionally, government moves for downward departure.

2009 Advisory Committee's Note to LR 83.10

[To avoid confusion, the 2013 advisory committee has deleted the table of timelines that previously appeared in the 2009 committee note.]

1991 Advisory Committee's Note to LR 83.10

LR 83.10 supersedes the Court's Revised Order Re Sentencing Procedures Under the Sentencing Reform Act of 1984, dated October 30, 1989.

The purpose of LR 83.10 is to provide adequate time for preparation of the presentence report by the United States Probation Office, for disclosure of the presentence report to the parties, for the filing of presentence submissions by the parties, and to otherwise facilitate administration of the sentencing guidelines.

[~~The~~A table provided in the 1991 Advisory Committee Notes ~~has been~~was removed ~~so as~~ to avoid ~~any~~ confusion with ~~the~~later changes ~~in the rule that occurred in 2009.~~. Please refer to the ~~2009 Advisory Committee Notes~~2012 committee note for a table illustrating the timelines in LR 83.10.]

LR 83.11 ~~DIVISIONS, OFFICES OF THE CLERK, CALENDARS~~COURT ADMINISTRATION

(a) Divisions. The State of Minnesota constitutes one judicial district, divided into six divisions. ~~Cases in this District are assigned to particular divisions and particular judges pursuant to the Order for Assignment of Cases that has been adopted by the Judges of the District Court. The Order for Assignment of Cases may be modified from time to time as the District Court Judges see fit.~~

(b) Case Assignment. The court assigns cases to particular divisions and particular judges in accordance with the Order for Assignment of Cases that the court's district judges have adopted. The district judges may modify this order from time to time as they see fit.

(c) Offices of the Clerk.

(1) The Clerk of Court maintains offices in St. Paul, Minneapolis, ~~and~~ Duluth~~. The St. Paul, Minneapolis~~, and ~~Duluth~~Fergus Falls. All offices are generally open from 8:00 a.m. to 5:00 p.m~~. All offices are open~~., Monday through Friday~~, with~~. But the offices are closed on the following ~~exceptions:~~ holidays:

- New Year's Day;
- Martin Luther King~~,~~ Jr.'s Birthday; ~~President's Day;~~
- Washington's Birthday;
- Memorial Day;

- Independence Day;
- Labor Day;
- Columbus Day; ~~Veterans~~
- Veterans' Day;
- Thanksgiving Day;
- the Friday after Thanksgiving Day; and
- Christmas Day.

~~The~~ (2) In general, the clerk maintains the files for ~~matters~~each pending ~~before the Court are maintained in the office~~matter in ~~the division to which the case is assigned. However,~~electronic format. A party may file papers relative to any ~~case may be filed~~ matter in any office, and a party may get copies of publicly filed papers from any office.

(~~c~~d) Calendars. The ~~Court~~court operates on an individual calendar system. ~~Judges in active service are assigned and assume responsibility for their proportionate share of the total cases filed in the district. Inquiries as to~~ Questions about motions, ~~probable~~hearing or trial ~~date~~dates, or other ~~matters having~~issues related to ~~do with~~ a particular case ~~may~~should be addressed to the courtroom deputy ~~clerk serving as calendar clerk~~ for the ~~Judge~~judge to whom the case has been assigned.

[Adopted effective February 1, 1991; amended November 1, 1996; amended October 29, 2003; amended ___, 2013]

2013 Advisory Committee's Note to LR 83.11

The language of LR 83.11 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Subsection (c) (former subsection (b)) has been revised to better reflect the court's current practices with respect to what offices are open, what holidays are observed, and how files are maintained.

2003 Advisory Committee's Note to LR 83.11

The first paragraph of LR 83.11 (a) was amended in 2003 to conform to the current Court procedure of assigning cases to divisions and judges pursuant to the Order that may be revised from time to time.

1991 Advisory Committee's Note ~~T~~to LR 83.11

The division system of the United States District Court for the District of Minnesota is a product of the Courts' modification of the division system established by statute to fit the practicalities of present judicial activity within the district.

By statute, Minnesota is divided into six divisions. 28 U.S.C. § 103. The statute provides that terms of Court shall be held in Winona, Mankato, St. Paul, Minneapolis, Duluth, and Fergus Falls. A District Court retains the discretion to pretermit any regular session of Court for insufficient business or other good cause. 28 U.S.C. § 140.

The Court on two occasions has utilized its pretermission authority to effectively eliminate trials or hearings in three divisions. By an Order dated December 2, 1960, the Court pretermitted the terms of Court in the First and Second Divisions. In an order dated January 31, 1990, the Court pretermitted the terms of Court in the Sixth Division. The Judges of the Court maintain chambers in the Third Division and Fourth Division. Cases emanating from counties of the First, Second, Third, Fourth and Sixth Divisions are assigned to either the Third or fourth Division based upon the location of the chambers of the Judge to whom the case is assigned. Cases emanating from the Fifth Division are assigned to the Fifth Division regardless of the location of the chambers of the Judge to whom the case is assigned.

The remaining significance of the division system in Minnesota is two-fold. First, petit juries are selected by division. That is, cases assigned to the Third Division have their jury drawn from individuals residing in counties that make up the Third Division. The same is true in the Fourth and Fifth Divisions. Second, although the Judges of the Court maintain offices in the Third and Fourth Divisions, terms of Court are held in the Fifth Division for matters assigned to the Fifth Division.

LR 83.12 COMPLAINTS AGAINST A JUDGE ~~OR MAGISTRATE JUDGE~~

~~Complaints against a Judge or Magistrate Judge based on allegations of misconduct or disability~~A person may ~~be filed~~file with the Clerk of the United States Court of Appeals for the Eighth Circuit ~~as provided~~a complaint against a judge alleging misconduct or disability. Such complaints are governed by

- 28 U.S.C. § 372(c~~)~~);
- the Judicial-Conduct and ~~by Rule 2 of the~~Judicial-Disability Rules ~~of~~adopted by the Judicial ~~Council~~Conference of the ~~Eighth Circuit Governing Complaints of Judicial Misconduct~~United States; and ~~Disability. Persons considering a complaint should refer to Rule 1 of the~~
- the Rules ~~of the Judicial Council of the Eighth Circuit~~ Governing Complaints of Judicial Misconduct and Disability ~~for a description of acceptable grounds for complaint.~~ adopted by the Judicial Council of the Eighth Circuit.

[Adopted effective November 1, 1996; amended __, 2013]

2013 Advisory Committee's Note to LR 83.12

The language of LR 83.12 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments. In addition, LR 83.12 has been revised to refer not only to the relevant Eighth Circuit rules, but also to the relevant rules of the Judicial Conference of the United States.

1996 Advisory Committee's Note to LR 83.12

LR 83.12 was added in the 1996 amendments upon consideration by the Committee of the request of Judge William J. Bauer, Chairman of the Committee to Review Circuit Council Conduct and Disability Orders of the Judicial Conference of the United States, that federal district courts include in their Local Rules a reference to the procedure established by 28 U.S.C. § 372(c) and to the Circuit Court rules governing the process. The Judicial Council of the Eighth Circuit agreed with this proposal at its meeting of December 6, 1994. See letter from the Honorable William J. Bauer to the Honorable Richard S. Arnold, October 14, 1994; letter from the Honorable Richard S. Arnold to the Honorable William J. Bauer, December 7, 1994.

LR 83.13 COURT APPOINTEES

(a) Scope ~~of Rule.~~ ~~The provisions of this rule shall be applicable~~. This rule applies to any person ~~who is appointed by~~whom a judge appoints to ~~serve as an aide or resource to~~assist the court in a ~~particular~~ matter ~~or collection of matters, including but not limited to~~. Appointees under this rule may include, for example, special masters, receivers, referees, trustees, commissioners, court-appointed experts, investigators, mediators, and arbitrators~~, (referred to herein as "appointees")~~.

(b) ~~Disclosure of~~ Conflicts~~.~~ ~~Whenever any~~ of Interest.

(1) If an appointee becomes aware of any circumstances that may constitute, or appear to constitute, a conflict of interest, the appointee ~~shall~~must immediately inform the appointing judge of all facts relevant to ~~such~~those circumstances. ~~For purposes of this rule, a "conflict of interest" includes any set of circumstances that affects, or appears to affect, the appointee's ability to act impartially in the matter for which he or she was appointed.~~ The appointing judge ~~shall~~must then determine what, if any, action should be taken ~~with respect to any conflict of interest information reported by an appointee~~.

~~**(c) Complaints Against Court Appointees.** Any complaint about the conduct~~ (2) A "conflict of ~~an appointee shall~~interest" includes any set of circumstances that affects, or appears to affect, an appointee's ability to act impartially in the matter for which he or she was appointed.

(c) Complaints.

(1) A complaint about an appointee's conduct must be made in writing to the appointing judge ~~describing the specific alleged misconduct by the appointee. Any such~~. The complaint ~~should~~must include a detailed description of the facts and circumstances giving rise to the complaint~~,~~ and ~~should~~must expressly identify the ~~legal or ethical basis, (~~statute, rule, regulation, canon, or other authority~~) for~~ on which the complaint~~.~~ is based.

(2) The judge must permit the appointee and ~~all~~the parties ~~shall have the opportunity~~ to respond to the complaint. ~~Nothing herein shall prevent a judge from independently reviewing the conduct of his or her court appointee at any time and taking such action with respect to the appointee as the judge may deem appropriate.~~

(~~**d) Resolution of Complaints.**~~ 3) The ~~appointing~~ judge ~~shall~~must review ~~any~~the complaint ~~against an appointee and shall~~, determine whether ~~there actually has been any misconduct by~~ the appointee committed misconduct, and decide what action, if ~~so, what, if any,~~any, to take. The judge may take appropriate action ~~should be taken in response~~

~~to such misconduct. The appointing judge may also take such action as he or she deems appropriate~~ to protect ~~and preserve~~ the rights and interests of ~~any party~~anyone who may have been affected by ~~any misconduct by~~ an ~~appointee~~appointee's misconduct.

(d) Court-Initiated Discipline. An appointing judge may, at any time, independently review an appointee's conduct and take appropriate action.

[Adopted effective January 3, 2000; amended ___, 2013]

2013 Advisory Committee's Note to LR 83.13

The language of LR 83.13 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

1999 Advisory Committee's Note to LR 83.13

The Committee concluded that allegations of misconduct by court appointees will most often arise out of either actual or apparent conflicts of interest. For this reason, the rule expressly requires appointees to disclose any such conflicts to the appointing judge. The Committee further concluded that it would not be feasible or necessary to develop a comprehensive code of ethical conduct for all court appointees. Such appointees will be expected to follow the broad moral and ethical principles that guide the conduct of lawyers and judicial officers.

The Committee recognizes that judges must retain the authority to manage and control their cases. The automatic assignment of an "outside judge" to consider complaints against a court appointee could adversely affect that authority. If a party or the appointing judge believes that some other judge should consider a complaint against an appointee, the general rules regarding recusal would be applicable.

This rule confirms the appointing judge's authority to act on a complaint of misconduct by an appointee. The rule expressly recognizes the judge's authority to (a) preserve the integrity of the court by taking appropriate disciplinary action against the appointee, and (b) protect litigants whose interests may have been adversely affected by the misconduct of an appointee. A judge's response to misconduct by an appointee may include, without being limited to, termination of the appointment, imposition of sanctions, application of the power of contempt, recommending to other judges that the appointee should be barred from future appointments in this District, initiation of attorney disciplinary proceedings in this District pursuant to L.R. 83.6(e), referring the matter to the Minnesota Office of Lawyers Professional Responsibility, or referring the matter to the United States Attorney or the Minnesota Attorney General to consider criminal charges. Complaints regarding fee issues (in cases involving special masters) should be raised and addressed under Fed.R.Civ.P. 53. Any party who is dissatisfied with a judge's action on a complaint against an appointee would retain the same right to appeal that exists for any other action taken by a district court judge.